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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,236	01/11/2002	George M. Halow	A-7709	4880

7590 12/10/2003

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EXAMINER

KALINOWSKI, ALEXANDER G

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/042,236

Applicant(s)

HALLOW ET AL.

Examiner

Alexander Kalinowski

Art Unit

3626

--Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11/26/2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1,2,4-15 and 17-21.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Alexander Kalinowski
Primary Examiner
Art Unit: 3626

Applicant proposed an amendment to independent claims 1 and 13 by canceling claims 22 and 23 and incorporating the feature of determining whether a single practitioner has submitted more than one disparate medical treatment claim for a single block of treatment time for different patients of claims 22 and 23 into claims 1 and 13. The grounds of rejection of claims 1, 2, 4-15 and 17-21 are maintained by the Examiner. The Applicant argues that the use of official notice with respect to the feature of claim 22 and 23 incorporated into the independent claims 1 and 13 was traversed in Paper No. 12 by Applicant and the Examiner was required to produce a reference in response to the traversal of the grounds of rejection in view of official notice. The Examiner disagrees. In order for an Applicant to properly traverse the use of official notice in a grounds of rejection, the Applicant must establish that the feature was not well known to Applicant and the Applicant must formally request a reference from Examiner that supports the Examiner's use of official notice. After a careful review of Paper No. 12, the Examiner has determined that Applicant did not formally request a reference from the Examiner to support Examiner's use of official notice. Therefore, the Examiner did not err when the final rejection was established without providing a reference in support of the Examiner's use of official notice. However, in order to further the prosecution of the instant application, the Examiner will provide a reference to support the Examiner's use of official notice, namely, Hartnett-Barry, Joan, "Uninsured Motorist Claims and Fraud: How to Tame a Volatile Mix" (hereinafter Hartnett-Barry). Hartnett-Barry describes fraud with respect to uninsured motorist claims. In addition Hartnett-Barry describes fraudulent or questionable practices associated with treatment facilities used by insured motorists (pages 5-6). Furthermore, Hartnett-Barry describes several conditions

indicating fraudulent or questionable medical treatment claims including whether several patients were treated at the same time (page 6). Therefore, Applicant's arguments with respect to Examiner's use of official notice are nonpersuasive.

Applicant repeats arguments with respect to the rejection of claims 4, 5, and 17, 18 that are substantially the same as Applicant's arguments made in Paper No. 12. The Examiner refers Applicant to the Examiner's response established in Paper No. 13. The Examiner finds Applicant's arguments with respect to claims 4, 5, and 17, 18 to be nonpersuasive and maintains the rejection of claims 4, 5, and 17, 18.

Therefore, Applicant's proposed amendment will be entered. The grounds of rejection are maintained by the Examiner. In view of Applicant's proposed amendment to independent claims 1 and 13, the Examiner incorporates the official notice used for claims 22 and 23 into the rejection of claims 1 and 13. Therefore, the Examiner maintains the rejection of claims 1, 2, 4-15 and 17-21 based on 35 USC 103.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Kalinowski, whose telephone number is (703) 305-2398. The examiner can normally be reached on Monday to Thursday from 9:00 AM to 6:30 PM. In addition, the examiner can be reached on alternate Fridays.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached on (703) 305-9588. The fax telephone number for this group is (703) 305-7687 (for official communications including After Final communications labeled "Box AF").

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th Floor, receptionist.



A handwritten signature in cursive script, appearing to read "Alexander Kalinowski".

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Alexander Kalinowski

Primary Examiner

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12/8/03